

David Hernandez

DC-17-02576

Cause No. _____

CITY OF DALLAS,
Plaintiff,

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IN THE DISTRICT COURT

V.

DALLAS COUNTY, TEXAS

ROOHA REALTY, INC.
DBA BENT CREEK SHOPPING
CENTER, 9770 FOREST LANE
and 9798 FOREST LANE,
DALLAS, TEXAS, *in rem*,
Defendants.

_____ JUDICIAL DISTRICT

**CITY OF DALLAS' ORIGINAL PETITION, APPLICATION FOR TEMPORARY AND
PERMANENT INJUNCTION, AND REQUEST FOR DISCLOSURES**

TO THE HONORABLE JUDGE OF SAID COURT:

The City of Dallas, Plaintiff, files this Original Petition, Application for Temporary and Permanent Injunction, and Request for Disclosures (“Plaintiff’s Original Petition”) against Rooha Realty, Inc. dba Bent Creek Shopping Center, 9770 Forest Lane and 9798 Forest Lane, Dallas, Texas, *in rem*, and in support thereof would show unto the Court the following:

I. DISCOVERY CONTROL PLAN

1. Discovery is intended to be conducted under Level 2 of Rule 190 of the Texas Rules of Civil Procedure.

II. REQUEST FOR DISCLOSURE

2. Defendants are requested to disclose, within fifty (50) days of service of this request, the information or material described in Rule 194.2 of the Texas Rules of Civil Procedure.

III. PARTIES

3. Plaintiff, the City of Dallas (“City”), is a home rule municipal corporation primarily situated in Dallas County, Texas, incorporated and operating under the laws of the State of Texas.

4. Defendant Rooha Realty, Inc. dba Bent Creek Shopping Center (“Rooha”) is a Texas For-Profit Corporation owning the real commercial property that is the subject of this lawsuit. Service of process may be made upon Rooha through its registered agent, Mohammed Hanif Khanani, at 10550 Walnut Street, Dallas, Texas 75243, or wherever he may be found.

5. The real property located at part of Lot 1 and all of Lot 2, Block C/8094, also known as 9770 Forest Lane and 9798 Forest Lane, Dallas, Texas (referred to hereafter collectively as the “Property”), *in rem*, is the place where the common nuisance exists and may be served with citation through the owner, Rooha, through its registered agent, Mohammed Hanif Khanani, at 10550 Walnut Street, Dallas, Texas 75243, or wherever he may be found.

IV. JURISDICTION AND VENUE

6. The City brings this cause of action to obtain temporary and permanent injunctive relief and to recover civil penalties against Defendants pursuant to Chapter 125 of the Texas Civil Practice & Remedies Code. This Court has jurisdiction pursuant to Section 65.021 of the Texas Civil Practice and Remedies Code.

7. Venue is proper pursuant to Section 125.002 of the Texas Civil Practice and Remedies Code.

8. This cause of action is brought *in personam* and also *in rem* pursuant to Section 125.002(b) of the Texas Civil Practice and Remedies Code.

V. FACTS

9. Bent Creek Shopping Center (“Bent Creek”) is a one-story retail strip located in the northeast area of the city of Dallas. County records indicate that the retail strip was built in 1981 and purchased by Defendant Rooha in 2015.

10. Bent Creek’s owner, Rooha, operates the Property as a retail strip that has become a hub for drug use and sales and related violent crime.

11. Defendant Rooha maintains the Property as a place to which persons habitually go for the delivery, possession, manufacture or use of controlled substances in violation of Chapter 481, Health and Safety Code, aggravated assault, aggravated robbery, reckless discharge of a firearm and unlawfully carrying a weapon. These criminal activities frequently occur at the Property and the Property is frequently used in furtherance of the criminal activities.

12. During the period from May 28, 2015 to March 3, 2017, the following abatable criminal activity has occurred at the property:

- two (2) incidents of reckless discharge of a firearm in a public place as prohibited by the Penal Code, both of which resulted in arrests;
- sixty-six (66) arrests for the delivery, possession, manufacture, or use of controlled substances;
- seven (7) incidents of aggravated assault as described by Section 22.02 of the Texas Penal Code;
- seven (7) arrests for unlawfully carrying a weapon as described by Section 46.02 of the Texas Penal Code;
- one (1) incident of robbery as described by Section 22.011 of the Penal Code;
- one (1) incident of aggravated robbery as described by Section 20.03 of the Penal Code;

13. As early as April 2015, Defendant Rooha was notified by the Dallas Police Department (“DPD”) that the Property was being used for criminal activity.

14. The Property constitutes a common nuisance pursuant to Section 125.0015 of the Texas Civil Practice and Remedies Code.

15. Defendant Rooha knowingly tolerates the habitual criminal activity, has failed to make reasonable attempts to abate the activity, and continues to maintain the Property as a common nuisance.

VI. CAUSES OF ACTION AND REQUEST FOR RELIEF

A. Temporary and Permanent Relief under Chapter 125 of the Texas Civil Practice and Remedies Code

16. The City re-alleges paragraphs 1-15 as if fully set forth herein.

17. The City requests a temporary injunction and permanent injunction pursuant to Section 125.002 of the Texas Civil Practice and Remedies Code immediately prohibiting Rooha from maintaining the Property as a common nuisance, specifically, as a place to which persons habitually go for the delivery, possession, manufacture or use of controlled substances in violation of Chapter 481, Health and Safety Code, aggravated assault, aggravated robbery, reckless discharge of a firearm and unlawfully carrying a weapon.

18. If, after notice and hearing on a request by the City for a temporary injunction, the Court determines that the City is likely to succeed on the merits in a suit brought under Section 125.002 of the Civil Practice and Remedies Code, the City requests that the Court order reasonable requirements to prevent the use or maintenance of the Property as a common nuisance.

19. If, after notice and hearing on a request by the City for a temporary injunction, the Court determines that the City is likely to succeed on the merits in a suit brought under Section

125.002 of the Civil Practice and Remedies Code, the City requests, and Section 125.045(a) mandates, that the Court: 1) require Defendants to execute a bond payable to the State of Texas at Dallas County in an amount no more than \$10,000 but not less than \$5,000; 2) require that Defendants have sufficient sureties approved by the Court; and 3) condition such bond on the requirement that Defendants will not knowingly maintain a common nuisance at the Property.

20. The City further requests that if final judgment be in favor of the City, pursuant to Sections 125.002(e) and (f) of the Texas Civil Practice and Remedies Code, the Court grant a permanent injunction requiring the following: 1) ordering Defendants to abate the common nuisance at the Property; 2) enjoining Defendants from maintaining or participating in the common nuisance at the Property; and 3) imposing specific requirements on Defendants to prevent the use or maintenance of the Property as a common nuisance.

21. Additionally, if final judgment be in favor of the City, such judgment would be a judgment *in rem* against the Property as well as a judgment against Defendant Rooha. As a result, the City requests, and Section 125.002(e) of the Texas Civil Practices and Remedies Code mandates, that the Judgment order that the Property be closed for one year after the date of the Judgment.

22. If, after entry of a temporary or permanent injunction, the Court determines that a condition of the injunctive order has been violated, the City requests that, pursuant to Section 125.045(b) of the Texas Civil Practice and Remedies Code, the Court issue an order to:

- (a) allow the City to discontinue the furnishing of utility services to the Property;
- (b) allow the City to prohibit the furnishing of utility service to the Property by any public utility holding a franchise to use the streets and alleys of the City of Dallas;
- (c) allow the City to revoke the certificate of occupancy for the Property;

(d) allow the City to prohibit the use of city streets and alleys and other public ways for access to the Property during the existence of the common nuisance or in furtherance of the common nuisance;

(e) limit the hours of operation of the Property, to the extent that the hours of operation are not otherwise specified by law;

(f) require the landlord to terminate a tenant's lease if the landlord and tenant are parties to the suit and the tenant has violated a condition of the injunctive order; or

(g) provide any other legal remedy available under the laws of the State.

23. Pursuant to Section 125.045(c), if a condition of a bond filed or an injunctive order entered under Chapter 125 of the Civil Practice and Remedies Code in this case is violated, the City may sue on the bond in the name of the state, with the remedy that the whole sum of the bond shall be forfeited as a penalty to the City.

24. If Defendant(s) fail to abide by any order issued by this Court, in addition to other remedies provided by law, the City requests that the Court hold Defendant(s) in contempt pursuant to Sections 125.002(d) and 125.066 of the Civil Practice and Remedies Code, and subject Defendant(s) to a sentence of a fine not less than \$1,000 or more than \$10,000; confinement in jail for no more than 30 days but no fewer than 10 days; or a combination of such fine and confinement.

B. Request for Attorneys' Fees and Costs

25. The City seeks Attorneys' Fees and costs under Texas Civil Practice and Remedies Code Section 125.00(b) and (d).

VI. REQUEST FOR JURY TRIAL

26. The City respectfully requests a trial by jury on all issues so triable.

PRAYER

WHEREFORE PREMISES CONSIDERED, the City respectfully requests that the Court grant the following relief in the City's favor:

- 1) That the City be granted temporary and permanent injunctive relief as requested herein;
- 2) That the City be awarded judgment in its favor for all costs of court and attorneys' fees;
- 3) That the City be awarded judgment in its favor for post-judgment interest at the highest legal rate, and
- 4) Such other and further relief, general or special, at law or in equity, to which the City may show itself to be justly entitled.

Respectfully submitted,
CITY ATTORNEY OF THE
CITY OF DALLAS
LARRY E. CASTO

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